

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MASSACHUSETTS INSTITUTE OF
TECHNOLOGY,

Plaintiff,

vs.

VIZIO, Inc.

Defendant.

Civil Action No. 1:12-cv-10900-DJC

MOTION TO CONSOLIDATE RELATED PATENT CASES
PURSUANT TO RULE 42 OF FEDERAL RULES OF CIVIL
PROCEDURE AND LOCAL RULE 40.1 (J)

Plaintiff Massachusetts Institute of Technology (“MIT”), by and through its undersigned attorneys, hereby moves to consolidate this patent infringement action with Civil Action No. 1:12-cv-10901-DPW styled as *Massachusetts Institute of Technology v. Funai Electric Company, Ltd.* (“the Funai Action”), pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and Local Rule 40.1(J).

Both of these patent lawsuits were filed on May 18, 2012. This lawsuit, *Massachusetts Institute of Technology v. Vizio, Inc.*, 1:12-cv-10900-DJC (the “Vizio Action”), was filed first and assigned to this Court. The Funai Action, filed second, was assigned to Judge Woodlock. Both actions involve the infringement of the same four patents by similar audio visual products, such as digital televisions, Blu-ray disc players, DVD-players and others that comply with certain industry standards. Because the two cases involve the same asserted patents and similar products, MIT anticipates that many common questions of law and facts will arise in both cases and believes that adjudication of the two cases by the same judge will preserve judicial resources and avoid potential inconsistent determinations.

By the same token, defendants will suffer no prejudice from consolidation. No activity has occurred yet in either case. Both defendants will have an opportunity to present all available defenses. Defendants will also benefit by the potential for consolidated discovery and elimination of risk of inconsistent determinations.

WHEREFORE, MIT respectfully requests that this Court consolidate the Vizio Action with the Funai Action. A proposed Order is attached hereto.

**MASSACHUSETTS INSTITUTE
OF TECHNOLOGY**

By its attorneys,

/s/ Thomas F. Maffei

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Dated: June 18, 2012

Certificate Pursuant to Local Rule 7.1(A)(2)

The undersigned hereby certifies that the defendants in Civil Action No. 1:12-cv-10900-DJC and Civil Action No. 1:12-cv-10901-DPW have not yet been served with process and thus defendants have not yet entered an appearance in the present action. As a result the parties have not met and conferred regarding the instant motion.

/s/ Thomas F. Maffei
Thomas F. Maffei

Certificate of Service

I, Thomas F. Maffei, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 18, 2012.

/s/ Thomas F. Maffei
Thomas F. Maffei